U.S. Attorney Kept After 'Impropriety'

By Sanford J. Ungar 4/12/72
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Assistant Attorney General Henry E. Petersen testified yesterday that the U.S. attorney in San Diego was guilty of "highly improper" conduct last year, but was nonetheless retained in office to preserve his image in the eyes of the public.

In question was U.S. Attorney Harry Steward's conduct during an investigation of whether a San Diego taxicab company had channeled an illegal political contribution to President Nixon's 1968 campaign through an advertising agency run by a prominent Republican, Frank A. Thornton.

Petersen acknowledged to the Senate Judiciary Committee that Steward quashed a grand jury subpoena issued to Thornton, telling federal agents at the time that Thornton "has been a good friend of mine. He's going to recommend me for a judgeship."

"He should have known better," Petersen said of Steward. "He was an experienced prosecutor."

But, the head of the Justice Department's Criminal Division testified, he and his aides recommended to them Deputy Attorney General Richard G. Kleindienst that Steward be publicly cleared because he was about to prosecute another major tax evasion case.

Instead of dismissing the government's chief legal representative in San Diego, Petersen said it was "decided that the deputy would meet with Mr. Steward and would admonish him for failing to observe department procedures in that he failed to remove himself from a case in which a close friend was a potential witness."

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While admonishing him in private last February, the Justice Department issued a public statement here expressing "full confidence" in Steward.

Sen. John V. Tunney (D-Calif.) has endorsed the contention in a recent Life magazine article that Steward and other Southern California Republicans attempted to block prosecution of the case against the taxicab company.

Petersen was on the witness stand all day yesterday, as the Judiciary Committee for the first time extended its hearings on Kleindienst's nomination as Attorney General to encompass the Life magazine allegations.

Yesterday was the 14th day of the reopened hearings, convened early last month at Kleindienst's request after columnist Jack Anderson disclosed a memorandum suggesting that the Justice Department had settled antitrust cases last July against the International Telephone and Telegraph Corp. in exchange for an ITT contribution to this summer's Republican National Convention in San Diego.

As Petersen testified, committee sources said, there was a move under way by Republicans to block the scheduled testimony of former Internal Revenue Service agent A. David Stutz, who was involved in the investigation of the 1968 contribution allegedly involving the taxicab company.

Stutz, in Washington in response to a Senate subpoena, sat in the front row of the hearing room audience yesterday, chain-smoking and occasionally shaking his head in disagreement with Petersen's version of events.

The former IRS agent, now employed by the San Diego County district attorney, would not talk to reporters, except to say that he had been advised by Judiciary Committee staff that he might not have to testify after all.

Committee Chairman James O. Eastland (D-Miss.) called an executive session of the panel for this morning, apparently to decide whether Stutz and another agent involved in the case, Richard Huffman, will be called.

Democrats on the committee said they had obtained a commitment to hear from Stutz and Huffman, while reaching a compomise agreement last week on extension of the Kleindienst hearings.

At the time, however, the Democrats granted Eastland broad discretionary authority to rule on the "germaneness" of any disputed witnesses or testimony.

Eastland is a staunch supporter of Kleindienst and favors a rapid conclusion of the hearings.

In another development yesterday, White House Press Secretary Ronald L. Ziegler repeated his prediction that Mr. Nixon will invoke "executive privilege" to prevent presidential aide Peter M. Flanigan from testifying during the Kleindienst hearings.

Flanigan was the one who recommended that New York Justice Department says was Ramsden do a report that the investment banker Richard J. central in its decision to settle the ITT antitrust cases rather than appealing them to the Supreme Court.

Ziegler's statement prompted Sen. Sam J. Ervin Jr. (D-N.C.) to threaten a Senate filibuster against the Kleindienst nomination if Flanigan does not appear.

"I will speak long enough to convince the Senate that he (Flanigan) should testify," Ervin told reporters. "ITT has made the worst presentation of its case that I have ever heard. I want to see if the White House does better."

Ervin contends that since the Ramsden report does not involve "confidential advice" to the President, executive privilege would be "spurious" in Flanigan's case.

Meanwhile Sen. Edward M. Kennedy (D-Mass.) charged the Justice Department with "at least the grossest incompetence and insensitivity . . . and at most a willful attempt to interfere with the proper functioning of this committee" in failing to reveal that a Denver physician treating ITT lobbyist Dita D. Beard was under investigation for Medicare fraud.

Petersen insisted, however, that the U.S. attorney in Denver never told the Justice Department about his probe of Dr. Louis M. Radetsky. He said he only learned of the matter after Kennedy wrote a letter to Eastland concerning Radetsky.

Early last month, the Judiciary Committee learned that Mrs. Beard's physician here, Dr. Victor L. Liszka of Arlington, and his wife were also under investigation on similar charges involving alleged Medicare irregularities.

The Washington Post has learned that Mrs. Beard, who collapsed while testifying in a Denver hospital room on March 26, is currently staying in Denver in the same apartment building where Radetsky lives and is under his constant medical supervision.

Ziegler also reiterated yesterday that President Nixon would not be staying at a new hotel under construction in San Diego by ITT's Sheraton subsidiary during the GOP convention.

ITT claims that its pledge of at least $200,000 to the convention was based on a commitment that Mr. Nixon would use the new hotel as his convention headquarters.

But Ziegler said, "He never planned to. He will be staying at the Western White House at San Clemente." The press secretary add, however, that he does not know where the Committee for the Re-election of the President will have its headquarters during the convention.

Robert L. Schmidt, director of public affairs at ITT's Washington office, also charged yesterday that columnist Jack Anderson had made a "vicious attack" on him in a column published yesterday, charging that Schmidt made a $500 payoff to Rep. Chet Holifield (D-Calif.).

Anderson's charge "is completely false, misleading and destructive to my name and reputation," Schmidt said in a statement list night. He said he had retained legal counsel to consider court action against Anderson and the newspapers which publish his column, including the Washington Post.

Petersen, in his testimony yesterday, contended that the controversy involving Steward was due in part to "considerable tension" between the U.S. attorney and special prosecutors and agents working in San Diego for a Justice Department Organized Crime Strike Force.

"There existed an honest difference of opinion among dedicated government employees, all of whom were striving to achieve the same result but through different means," Petersen said.